

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

Case No.: 11-46413-cec

EDWARD JOHN NIELSEN and  
LAURIE NIELSEN,

Debtors.

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**APPLICATION IN SUPPORT FOR AN ORDER TO REOPEN CHAPTER 7 CASE TO  
ADMINISTER ASSETS**

**RICHARD J. MCCORD**, the undersigned, an attorney, duly admitted to practice law in the courts of the State of New York and admitted to practice before this Court, hereby affirms the following to be true under the penalties of perjury:

1. I was the duly appointed Chapter 7 Trustee in the above-referenced matter having been appointed on July 26, 2011, pursuant to Section 702(d) of Title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”).

2. I submit this affirmation in support of my motion seeking an Order (i) reopening the above-referenced matter and reappointing a Chapter 7 Trustee pursuant to Section 350 of the Bankruptcy Code, Rule 5010 of Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rules 5010-1 of the Local Rules for the United States Bankruptcy Court, Eastern District of New York; (ii) waiving the fee to reopen this case; and (iii) for such other, further, different relief as this Court deems just, proper and equitable.

**BACKGROUND**

3. On July 26, 2011, Edward John Nielsen and Laurie Nielsen (the “Debtors”) filed a voluntary petition pursuant to Chapter 7 of the Bankruptcy Code.

4. On August 31, 2011, the Trustee conducted an examination of the Debtors pursuant to 11 U.S.C. §341A. The Trustee filed his Chapter 7 Trustee's Report of No Distribution on September 1, 2011. The Court issued the final decree on November 1, 2011 and the case was closed by the Court on November 3, 2011. Annexed hereto as "**Exhibit A**" is a copy of the Pacer Docket which reflects same.

5. That on or about September 9, 2019, the Trustee received correspondence from Archer Systems, LLC, who advised that the Debtor, Laurie, was entitled to receive funds from a class action lawsuit, based upon two incidents, one that occurred on September 4, 2008 and one that occurred on August 14, 2009 (the "Lawsuit").

6. The Trustee has reviewed the Debtors' bankruptcy petition and the Lawsuit was not listed in the Schedules nor was the Lawsuit disclosed at the §341A Meeting of Creditors. Annexed hereto as "**Exhibit B**" is a copy of Schedule B and the Statement of Financial Affairs from the Debtors' bankruptcy petition.

7. Additionally, the Trustee has reviewed Schedule F of the Debtors' petition to determine the debt owed to creditors. A copy of the Schedule F is annexed hereto as "**Exhibit C**" which reflects an obligation for unsecured debt in the total amount of \$104,701.04.

8. The Trustee requests an Order of the Court reopening the above-referenced case pursuant to 11 U.S.C. §350(b) of the Bankruptcy Code and Rule 5010 of the Bankruptcy Rules for the purpose of administering the asset. There is clearly a basis to reopen this case in order for a Trustee to administer the assets.

#### **BASIS FOR RELIEF**

9. Section 350(b) of the Bankruptcy Code provides "a case may be reopened in the

court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause”.

10. Rule 5010 of the Bankruptcy Rules provides “a case may be reopened on motion of the debtor or other party in interest pursuant to Section 350(b) of the Code. In a Chapter 7 case... a Trustee shall not be appointed by the United States Trustee unless the court determines that a trustee is necessary to protect the interest of creditors and the debtor or to insure efficient administration of the case”.

11. It is respectfully submitted that “cause” exists to reopen the case pursuant to Section 350 of the Bankruptcy Code and Rule 5010 of the Bankruptcy Rules and to reappoint a Chapter 7 Trustee.

12. It is respectfully requested that the Courts Local Rule 9013-1(a) requiring a memorandum of law in support of the Motion be waived as there are no novel issues raised herein.

**WHEREFORE**, the Trustee respectfully requests the entry of an Order (i) reopening the above-referenced matter and reappointing a Chapter 7 Trustee pursuant to Section 350 of the Bankruptcy Code, Rule 5010 of Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rules 5010-1 of the Local Rules for the United States Bankruptcy Court,

Eastern District of New York (ii) waiving the fee to reopen this case and (iii) for such other, further, different relief as this Court deems just, proper and equitable.

Dated: East Meadow, New York  
September 10, 2019

**CERTILMAN BALIN ADLER & HYMAN, LLP**

BY: /s/ Richard J. McCord  
**RICHARD J. MCCORD, ESQ.**  
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